UNITED
NATIONS

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Security Council

Distr.
GENERAL

S/25620
19 April 1993

ORIGINAL: ENGLISH

STATUS OF THE IMPLEMENTATION OF THE PLAN FOR THE ONGOING MONITORING AND VERIFICATION OF IRAQ'S COMPLIANCE WITH RELEVANT PARTS OF SECTION C OF SECURITY COUNCIL RESOLUTION 687 (1991)

Report of the Secretary-General

INTRODUCTION

1. The present report is the third submitted pursuant to paragraph 8 of Security Council resolution 715 (1991), adopted on 11 October 1991, by which the Council requested the Secretary-General to submit a report to the Council every six months on the implementation of the Special Commission's plans for the ongoing monitoring and verification of Iraq's compliance with relevant parts of section C of Security Council resolution 687 (1991). It updates the information contained in the first two reports (S/23801 and S/24661).

2. In brief, in the period under review, Iraq has continued its refusal to provide unconditional acknowledgement of its obligations under resolution 715 (1991) and the plans approved thereunder. It has further underlined its position that the only obligation it recognizes in respect to ongoing monitoring and verification is that contained in paragraph 10 of resolution 687 (1991) and that it does not accept the modalities and arrangements for such monitoring and verification as laid down in the plans approved by the Council in resolution 715 (1991). In these circumstances, no progress has been made in carrying out the ongoing monitoring and verification approved by the Council in resolution 715 (1991).

I. DEVELOPMENTS DURING THE PERIOD 11 OCTOBER 1992-10 APRIL 1993

A. Provision of information

3. Under the Special Commission's ongoing monitoring and verification plan (S/22871/Rev.1), Iraq is obliged to provide certain declarations. The first were due by 10 November 1991, concerning (a) initial information on the dual-purpose activities, facilities and items specified in the plan and its annexes; and (b) a report on the legislative and administrative measures taken to implement resolutions 687 (1991) and 707 (1991), other relevant Security Council

resolutions and the plan. Iraq is further obliged to update the information on (a) each 15 January and 15 July, and to report further on (b) when requested to do so by the Commission.

4. As was noted in the last report (S/24661), no declarations were received from Iraq until 27 June 1992, i.e., Iraq missed the first two reporting requirements. The product received on 27 June was called by Iraq "Report on future compliance and monitoring". However, a group of international experts convened by the Commission to assess this report deemed it, while providing a basis on which to build, to be inadequate for the purpose of commencing ongoing monitoring and verification activities. Furthermore, the report contained no declaration on the legislative and administrative measures taken by Iraq to give effect to its obligations.

5. On 14 February 1993, Iraq provided a second set of declarations entitled "Updated monitoring information. Report No. 2". These add little to the first set.

6. A further difficulty relates to the inadequacy of a different set of declarations Iraq is obliged to provide - the full, final and complete disclosure of all aspects of its weapons programmes proscribed under section C of resolution 687 (1991), as required under resolution 707 (1991). In particular, complete information on Iraq's past production, suppliers and use of prohibited items and its past capacity to produce such items is necessary in order to plan effective inspection and import control regimes as required under the future ongoing monitoring and verification plans and Security Council resolution 715 (1991). The mechanism foreseen in paragraph 7 of that resolution can only be realistically designed when this information is available to the Sanctions Committee, the Special Commission and the International Atomic Energy Agency (IAEA).

B. Operational developments

7. Due to Iraq's continued refusal to provide unconditional acknowledgement of its obligations under resolution 715 (1991) and the plans for ongoing monitoring and verification approved thereunder, the Special Commission continues to be unable to begin implementation of the plan covering its areas of competence (S/22871/Rev.1). However, the Commission has identified certain facilities and activities in Iraq which clearly need to be monitored in the interim because they could already be put to prohibited use. Consequently, the Commission has instituted a new type of inspection activity, termed "interim monitoring". The introduction of this activity in no way diminishes the requirement to institute full-scale monitoring as envisaged in the plans and hence does not diminish the importance of Iraq acknowledging unconditionally its obligations under them.

8. The first interim monitoring team was established on 26 January 1993, based at the Ibn Al-Haytham missile research centre to the north of Baghdad. Iraq has declared this centre to be its principal facility for research into and development of missiles with a range of less than 150 kilometres, that is, those not banned under the terms of resolution 687 (1991). The centre employs a significant number of scientists previously employed in Iraq's now proscribed ballistic missile programmes. While its work centred around the Ibn Al-Haytham

facility, the team also visited other sites. It completed its work on 23 March 1993.

9. Based on the experience of the team at Ibn Al-Haytham, which in part highlighted the significant amount of ongoing activity in Iraq on solid propellant missile systems, the Commission decided it would be useful to continue this inspection effort. A second team was established on 27 March 1993. While it will continue the task of monitoring the Ibn Al-Haytham centre, other facilities in Iraq conducting work on solid propulsion and related technologies will also be monitored.

C. Political developments

10. On the substance of the plans for ongoing monitoring and verification, Iraq's position remains unchanged. By a letter dated 28 October 1992 from the Iraqi Foreign Minister addressed to the Secretary-General (S/24726, annex), Iraq reiterated its opposition to resolutions 707 (1991) and 715 (1991) by stating that:

> "It is ... essential for the Council to conduct a radical review, on the basis of justice and fairness, of the terms and provisions of these two resolutions."

11. In his statements to the Council on 23 November (S/PV.3139, resumption 1) and 24 November 1992 (S/PV.3139, resumption 2), the Deputy Prime Minister of Iraq, Mr. Tariq Aziz, said:

> "[T]here is a need for all those measures and the provisions of the no longer necessary Security Council's resolutions to be drastically reviewed." (ibid., resumption 1, p. 98)

12. On 31 January 1993, the Iraqi Government officially informed the Executive Chairman of the Special Commission in writing that Iraq considered the new arrangement of interim monitoring at the Ibn Al-Haytham facility to be conducted under resolution 687 (1991). The Commission understood this to mean that Iraq would prevent this team, or any other team, from operating under the terms of the plan approved under resolution 715 (1991).

13. As recently as 29 March 1993, during discussions on the modalities for the second interim monitoring team, Commission personnel detected no change on the part of Iraq on the fundamental issues of acknowledgement of resolution 715 (1991) and on the provision of data on suppliers. This was borne out on 1 April 1993, when General Amer met the team. Reading from prepared notes and stressing that this was the official Iraqi position on the issue of monitoring, General Amer is reported by the United Nations Chief Inspector to have said:

> "Iraq accepted the first monitoring team to the Ibn Al-Haytham centre in accordance with resolution 687 (1991). However, it appears from the modalities of the monitoring team that the Special Commission is trying to overlap in a discreet fashion Iraqi obligations under resolution 687 (1991) and resolution 715 (1991). This is very clever. Iraq knows that, using Iraqi cooperation under resolution 687 (1991), the Special Commission wants

to assert Iraqi obligations under resolution 715 (1991). Iraq is fully aware of this effort. If the objective of the Special Commission is to make sure that no prohibited activities are going on, prohibited items are destroyed and Iraq has no capability to reactivate proscribed programmes, Iraq has no objections as this is part of resolution 687 (1991). However, if the objective is to start a de facto implementation of resolution 715 (1991) without Special Commission testament to the Security Council that Iraq is in full compliance with resolution 687 (1991) and without implementing paragraph 22 of that resolution, Iraq will not welcome this mission. The monitoring missions would not be welcome. But even in this case, Iraq will still cooperate with the Special Commission to see the true objectives of these missions and to explore the intentions of the Special Commission. Iraq told the Special Commission that resolution 715 (1991) could only be discussed in connection with the implementation of paragraph 22 of resolution 687 (1991). You should never think or believe that it could be done otherwise."

14. Iraq's position is maintained despite assurances by the Commission that, if Iraq cooperated, its legitimate concerns would be met and the Commission's activities would be carried out in a manner which is not unduly intrusive.

D. Iraqi conduct

15. In addition to these statements of position, Iraq has, through its conduct over recent months, consistently demonstrated its desire to limit the Commission's inspection rights and operational capabilities through seeking to place restrictions on inspectors in the course of their work. While many of these Iraqi actions have taken place during the course of inspections under resolution 687 (1991), the Commission has no doubt that they form part of a long-term campaign to establish a practice for the conduct of inspections which would severely restrict the rights provided in the plans and relevant Security Council resolutions. Iraq is thus clearly seeking to assert for itself the right to interpret how the resolutions should be implemented.

16. Included in this campaign have been attempts by Iraq: to restrict the scope of inspections and information gathering; to restrict access and impose delays on inspections; to restrict the exercise of the Commission's aerial rights; to impose limits on the duration, size and composition of inspections; to require advance notice of inspection activities; and to limit the right to take photography. Further details on these incidents can be found in the annex to the present report. Each incident has varied in seriousness. Some might not be significant were they not part of a general trend. However, when taken together, these incidents add up to a major impediment which would effectively impede credible long-term monitoring and verification. This again underlines the need to obtain from Iraq as soon as possible its formal acknowledgement of its obligations under resolution 715 (1991), so that the Council's requirements laid down in that resolution can be met.

II. CONCLUSIONS

17. The conditions for the initiation in full of the Special Commission's plan for ongoing monitoring and verification have still not been met. There has again been no movement in Iraq's underlying negative position on the plan and resolution 715 (1991). The Commission's assessment remains that Iraq is seeking to ensure that implementation of the plan proceeds on the basis of its interpretation of its obligations, rather than on the basis of Security Council resolutions and the plan adopted by the Council.

18. Iraq's spurious complaints and allegations about the motives and activities of the Commission, some of which are recorded in the annex, demonstrate Iraq's unwillingness both to comply with its obligations and to facilitate the task of the Commission. Iraq's reluctance to provide willingly the information required by the Commission in order for it to fulfil its mandate means that the Commission has to be more extensive and intrusive in its efforts to obtain that information. This reluctance and Iraq's attempts to limit the Commission's endeavours raise doubts about Iraq's intent. This, in turn, raises the degree of certainty that the Commission requires about Iraq's capabilities and about the use to which it puts its dual-capable facilities before the Commission can report with confidence that Iraq is in substantial compliance with its obligations arising from the relevant resolutions of the Security Council.

19. In the meantime, the Commission continues to revisit or survey from the air sites identified as having been used for activities proscribed by section C of resolution 687 (1991) in order to ensure that those activities have not been resumed. The Commission has already identified many additional sites which will require future monitoring. It continues to seek to supplement the information provided by Iraq through vigorous questioning and inspection, so that the initiation of full-scale monitoring will not be unduly delayed once Iraq makes the necessary political commitment to full compliance. A key element of this process has been the recent initiation of the interim monitoring concept.

20. Nevertheless, the Commission remains constrained from going beyond preparatory and interim work into full-scale monitoring and verification. Iraq's stance on the fundamental issues, its conduct referred to above and its failure to acknowledge its obligations under resolution 715 (1991) only underscore this conclusion. Unless Iraq changes its position, the Commission will not be in a position to ensure that Iraq does not reactivate its proscribed programmes.

Annex

Compendium of incidents

Restrictions on the scope of inspections

1. Paragraphs 13 to 15 of the present report note the Iraqi reaction to the initiation of interim monitoring. During the course of activity of the first interim monitoring team, several other discussions occurred that indicated a misconception, deliberate or otherwise, on the part of Iraq. The Iraqi counterparts questioned the right of the team to make an inventory of or to tag certain items of equipment at the sites monitored, requesting that specific criteria be established and be used to decide which items might be so treated. The team did not accept this position. Iraq indicated that certain items were of no concern to the Special Commission, when clearly the decision as to what is of concern to it lies with the Commission. Furthermore, some of the items involved have the potential to be used for proscribed purposes. The counterparts also complained about the purpose of the team, stating that it was to control, not monitor, Iraq's activities.

Denial of or restrictions on access and delays to inspection

2. On four occasions, Iraq has sought to deny the Commission's basic aerial rights - once in relation to entry of transport aircraft into and out of Iraq (see S/25172, annex), and thrice in relation to overflight of sites for aerial surveillance by helicopter. Except for the flight over the two sites on the outskirts of Baghdad (reported in S/24985, annex), the Commission was eventually able to conduct the flights. However, as already reported to the Council, one of these flights had to be conducted with a restricted flight pattern, and not before Iraq had threatened to shoot the helicopter down if it did not leave the vicinity of the site.

3. Iraq has also hindered access for inspection teams, sometimes seeking, on spurious grounds, completely to deny access. One team was initially denied access because inspection would "breach the sanctity of universities and would upset the students". In each instance, the inspection eventually took place. In the period under review, a total of eight Commission inspection activities were seriously delayed, in one case by over four hours. One, the aerial surveillance on the outskirts of Baghdad, has been blocked.

Restrictions on aerial rights

4. Paragraphs 11 (f) and (h) of the six-monthly report of 17 December 1992 (S/24984, annex) described at length the problems faced until that date by the Special Commission. Problems have continued since. In addition to the incidents referred to in paragraph 2 of the present annex, Iraq has created further difficulties in relation to the Commission's aerial rights.

5. In his letter of 5 August 1992, Mr. Al-Zahawi, Adviser in the Iraqi Ministry for Foreign Affairs, informed the Executive Chairman of the Special Commission that his request to use the Al-Rasheed airfield as the point of entry and departure for inspection teams was unworkable, as the airfield was

unserviceable. The Deputy Executive Chairman replied the next day, expressing the desire to so use Al-Rasheed airfield as soon as it became operational. Recently, Sudanese Airways Boeing 707 aircraft have been observed using the airfield. However, enquiries by Commission personnel about the possibility of using it as the point of entry and exit have met with the response that such a decision would be political. No progress has been made on this issue.

6. Iraq has created problems in the operation of the Aerial Inspection Team. It has sought: to establish "no go" areas over which the team may not fly and which may not be included in the boxes designated the night before aerial inspections; to prevent the team from taking photographs and using binoculars while flying between designated sites and even over the designated site; and to demand 10 minutes' notice before an aerial inspection starts.

7. Each time the Commission's high-altitude U-2 surveillance aircraft flies, Iraq lodges a formal complaint about its activities. Iraq persists in calling the aircraft a United States spy plane and has recently described it as being used for "despicable criminal purposes", despite its United Nations registration and mandate. On 10 March 1993, the Minister for Foreign Affairs of Iraq, Mr. Al-Sahaf, addressed a letter to the Secretary-General (S/25387, annex), in which he alleged that the aircraft had been used to assist in the planning of an Israeli operation to assassinate President Saddam Hussein.

Limits on the duration, size and composition of inspections

8. Iraq has sought to limit the duration of both monitoring and aerial surveillance activities, indicating, in relation to the former, that they should be of finite duration and, in relation to the latter, that aerial inspections should not last longer than 15 minutes.

9. Iraq has also sought to limit the size of inspection teams at certain sites it deems sensitive, such as universities, and to interfere in the composition of the team by, for example, seeking to exclude the Commission's own interpreters from a team. It has also sought to establish that those involved in the chemical destruction Group at Al Muthanna are not permitted to take part in other inspection activities and to limit the turnover of Commission personnel in the helicopter support staff.

10. It is clear from the Status Agreement of May 1991 that the Commission has the right to decide the expertise it needs to conduct inspections and hence the right to choose the number and the types of experts it needs on each team and to inspect each site. Iraq is obliged to allow personnel named by the Commission access to conduct their tasks.

Advance notice of inspection activities

11. For aerial surveillance activities, Iraq has sought to establish that it should receive advance notice of the site to be surveyed. No-notice inspections are essential to the effectiveness of the Commission.

Provision of data

12. As noted in section A of the present report, Iraq has failed to provide adequate declarations either of its past proscribed programmes or of its dual-capable facilities which would need to be incorporated into the plans for ongoing monitoring and verification. The Commission has sought to supplement those declarations during each of its inspections. However, Iraq refuses to offer information willingly, or at all, in certain key areas, e.g., on its supplier networks or its previous use of chemical weapons. Consternation has also been expressed by Iraqi counterparts that the Commission continues to ask questions about Iraq's past programmes, despite the fact that these questions were asked because of Iraq's failure to fulfil its obligation to make full, final and complete disclosures on all aspects of its past programmes (see para. 6 of the present report).

13. Furthermore, Iraq has been unable or unwilling to produce specific items of equipment that the Commission has evidence were supplied to Iraq. Teams continue to find equipment and documents containing information pertinent to their mandate under the resolutions and ongoing monitoring and verification plan.

Photography

14. Iraq has sought to limit the Commission's unrestricted right to photograph any item or activity it deems of relevance to its task. Iraq has delayed photography until "permission" has been obtained from more senior officials; it has sought to prevent photography over a designated site; and it has sought to limit aerial photography to items within a set perimeter and inspection team photography to items Iraq deems to be related to resolution 687 (1991). If this last rule were applied, it would open the possibility of Iraq deciding what was "687-related" and could be used by Iraq to exclude all dual-purpose facilities, items and activities covered by the plans approved under resolution 715 (1991).

Security

15. The issue of security was dealt with at length in document S/24984, appendix II. Since that report and in addition to the threats to the Commission's aircraft referred to above, there have been continued incidents of vandalism of Commission vehicles, including the smashing of windscreens, windows and mirrors and the breaking of aerials. Four of these incidents occurred while the vehicles were being driven by Commission personnel. In one incident, the drivers were medics and the vehicle bore Red Crescent markings.

16. Items continue to be taken from the offices and personal quarters of the Commission. Staff continue sporadically to receive threatening and harassing telephone calls in their hotel rooms in the middle of the night.